

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The AES Corporation, Dolphin Sub, Inc., DPL Inc. and The Dayton Power and Light Company for Consent and Approval for a Change of Control of The Dayton Power and Light Company.	:	Case No. 11-3002-EL-MER
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In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan.	:	Case No. 08-1094-EL-SSO
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In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs.	:	Case No. 08-1095-EL-SSO
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In the Matter of the Application of The Dayton Power and Light Company for Approval of Certain Accounting Authority Pursuant to Ohio Rev. Code §4905.13.	:	Case No. 08-1096-EL-AAM
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In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Amended Corporate Separation Plan.	:	Case No. 08-1097-EL-UNC
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In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan	:	Case No. 12-426-EL-SSO
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In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs	:	Case No. 12-427-EL-ATA
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In the Matter of the Application of The Dayton Power and Light Company for Approval of Certain Accounting Authority	:	Case No. 12-428-EL-AAM

In the Matter of the Application of : Case No. 12-429-EL-WVR  
The Dayton Power and Light Company for  
the Waiver of Certain Commission Rules :

In the Matter of the Application of : Case No. 12-672-EL-RDR  
The Dayton Power and Light Company  
to Establish Tariff Riders :

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**THE DAYTON POWER AND LIGHT COMPANY'S MEMORANDUM  
IN OPPOSITION TO APPLICATION FOR REHEARING**

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**I. INTRODUCTION AND SUMMARY**

In their January 18, 2013 Application for Rehearing, the Joint Movants assert that the Commission erred in its December 19, 2013 Entry when it extended The Dayton Power and Light Company's existing Electric Security Plan into 2013, until the Commission issues a decision on DP&L's pending ESP Application. Specifically, the Joint Movants assert that the Commission erred when it continued DP&L's Rate Stabilization Charge.

The Commission should reject the arguments made by the Joint Movants for the following separate and independent reasons.

First, Ohio law mandates that DP&L's existing ESP continue until such time as a new ESP is approved. Indeed, contrary to the arguments that the Joint Movants now make in their Application, they conceded that point in earlier memoranda that they filed with the Commission.

Second, as demonstrated in the attached Declaration of William Chambers ("Chambers Decl."), DP&L's financial integrity would be jeopardized if the Commission were to eliminate the RSC.

Third, the Joint Movants misstate the terms of the ESP I Stipulation. As demonstrated below, the ESP I Stipulation does not establish that the RSC cannot continue after December 31, 2012.

Fourth, the claim made by the Joint Movants that DP&L's RSC is unsupported is wrong. That charge was supported by testimony in DP&L's 2005 rate plan case, was approved in a Stipulation and Recommendation in that case (that Stipulation was signed by two of the Joint Movants), which was approved as a reasonable charge by the Commission, and the decision on the RSC was affirmed by the Supreme Court of Ohio over a challenge made by The Office of the Ohio Consumers' Counsel (one of the Joint Movants). The RSC was thereafter continued in the ESP I Stipulation (which many of the Joint Movants signed) and approved as reasonable by the Commission. The Joint Movants had their opportunity to challenge that charge in DP&L's 2005 rate-plan case and in the ESP I proceeding, but failed to do so (or, in OCC's case, failed to show that the charge was unreasonable).

Fifth, the delays in this case are the result of DP&L's good faith participation in settlement negotiations and compliance with the Staff's request that DP&L withdraw its Market Rate Offer Application, and file an ESP Application. DP&L should not be punished for its good-faith conduct.

Sixth, Ohio law establishes that the Commission cannot alter DP&L's rates without a hearing. Thus, if the Commission were to consider granting the Application for Rehearing, it must set a hearing date on that issue.

## II. BACKGROUND FACTS

The Stipulation in DP&L Case No. 08-1094-EL-SSO established an ESP for DP&L through December 31, 2012. February 24, 2009 Stipulation, ¶ 1. On March 30, 2012 -- ten months before DP&L's ESP was set to expire -- DP&L filed an Application in this matter to set its SSO rates through an MRO. If this case would have proceeded under a normal schedule, then there would have been ample time to resolve it last year.

However, as discussed in more detail below, there were delays in this case to accommodate settlement negotiations -- several hearing dates were cancelled, at the request of intervenors, to accommodate settlement negotiations. Also, as requested by Staff,<sup>1</sup> DP&L withdrew its MRO Application and filed an ESP Application on October 5, 2012.

As the end of the year approached and it became apparent that this case likely would not be resolved in 2012, the Joint Movants filed a motion asking the Commission to extend DP&L's ESP. In that motion, the Joint Movants conceded that "Ohio law specifies that ESP I shall continue until such time as the Commission lawfully approves a successor SSO." September 26, 2012 Joint Motion, p. 4. The Joint Movants asserted that DP&L's ESP I should be continued, but that the RSC should not continue.

On December 12, 2012, the Commission issued an Entry that continued DP&L's ESP I, including the RSC. The Commission ruled -- consistent with the argument made by the Joint Movants -- that "it would be consistent with both the Section 4928.141 and Section 4928.143(C)(2)(b), Revised Code, to order that the terms and conditions of the current ESP should be continued until a subsequent offer is authorized." Entry, ¶ 5.

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<sup>1</sup> April 27, 2012 Comments submitted on behalf of The Staff of the Public Utilities Commission of Ohio, pp. 25-26.

**III. THE COMMISSION SHOULD DENY THE APPLICATION FOR REHEARING**

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The Commission should reject the arguments made by the Joint Movants for the following separate and independent reasons:

1. **Ohio Law:** As an initial matter, Ohio law mandates that DP&L's current rates continue until a new ESP is approved by the Commission. Specifically, Ohio Rev. Code § 4928.141(A) states:

"Only a standard service offer authorized in accordance with section or of the Revised Code, shall serve as the utility's standard service offer for the purpose of compliance with this section; and that standard service offer shall serve as the utility's default standard service offer for the purpose of section of the Revised Code. Notwithstanding the foregoing provision, the rate plan of an electric distribution utility shall continue for the purpose of the utility's compliance with this division until a standard service offer is first authorized under section or of the Revised Code, and, as applicable, pursuant to division (D) of section of the Revised Code, any rate plan that extends beyond December 31, 2008, shall continue to be in effect for the subject electric distribution utility for the duration of the plan's term." (Emphasis added.)

Further, Ohio Rev. Code § 4928.143(C)(2)(b) states:

"If the utility terminates an application pursuant to division (C)(2)(a) of this section or if the commission disapproves an application under division (C)(1) of this section, the commission shall issue such order as is necessary to continue the provisions, terms, and conditions of the utility's most recent standard service offer, along with any expected increases or decreases in fuel costs from those contained in that offer, until a subsequent offer is authorized pursuant to this section or section 4928.142 of the Revised Code, respectively." (Emphasis added.)

The Ohio Revised Code thus establishes that the terms of DP&L's ESP I -- including the RSC -- shall continue until a new ESP is approved.

Indeed, the Joint Movants have repeatedly conceded that DP&L's current ESP must continue until a new ESP is approved. September 26, 2012 Joint Motion Seeking Enforcement of Approved Settlement Agreements, p. 4 ("Ohio law specifies that ESP I shall continue until such time as the Commission lawfully approves a successor SSO"); October 18, 2012 Reply to Memorandum of The Dayton Power and Light Company, p. 5 ("Ohio law specifies that ESP I shall continue until such time as the Commission lawfully approves a successor SSO"); October 16, 2012 Joint Memorandum Contra Dayton Power and Light Company's Proposed Procedural Schedule, p. 4 ("Ohio law provides that if another SSO is not approved prior to December 31, 2012, when DP&L's current ESP I was otherwise anticipated to terminate, DP&L's current SSO would simply continue").

The Commission's decision to extend DP&L's current ESP rates, including the RSC, was consistent with Ohio law and the arguments made by the Joint Movants.

**2. Financial Integrity/A Taking:** The Commission must establish rates that are "just and reasonable." Ohio Rev. Code § 4905.22. The Supreme Court of Ohio has stated:

"In determining whether a rate order is just and reasonable (and thus constitutionally permissible), the [United States Supreme Court in Fed. Power Comm'n v. Hope Natural Gas Co., 320 U.S. 591, 64 S. Ct. 281 (1944)] required a balancing of investor and consumer interests. With respect to the investors' interest, the court stated:

' . . . From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock.'"

Ohio Edison Co. v. Pub. Utils. Comm'n of Ohio, 63 Ohio St. 3d 555, 562-63, 589 N.E.2d 1292, 1298 (1992) (per curiam) (emphasis added) (quoting Hope Natural Gas Co., 320 U.S. at 603, 64 S. Ct. at 288).

The Commission has recently concluded in AEP's ESP proceeding that an ROE somewhere between 7%-11% was a "reasonable revenue target." August 8, 2012 Opinion and Order, p. 33 (Case No. 11-346).

The Joint Movants have continually changed their position as to the relief that they seek. Specifically, the Joint Motion asked that the RSC be eliminated. Joint Motion, pp. 5, 12, 14. The Reply claimed (falsely) that the Joint Motion did not ask that the RSC be eliminated, but instead asked only that the RSC be made bypassable. Reply, p. 17 ("the DP&L Memorandum incorrectly portrays the relief requested by the Joint Motion. The Joint Motion asks the Commission to eliminate the non-bypassable status of the RSC."); accord: id., pp. 5-6, 9-10, 13-15, 21, 28. The Application for Rehearing again asks that the RSC be eliminated. Application, pp. 2-4. It is thus difficult to determine exactly what the Joint Movants want.

Given the inability of the Joint Movants to maintain a consistent position, the attached Declaration of William Chambers addresses the return on equity that DP&L would earn under either request by the Joint Movants. Dr. Chambers' Declaration shows that if the RSC were eliminated, then DP&L would earn an ROE of ■■■% during any period in 2013 before the ESP II was approved. Chambers Decl., ¶ 3. If the RSC were made bypassable, then Dr. Chambers' Declaration shows that DP&L would earn an ROE of ■■■% during any period in 2013 before the ESP II was approved. Id. An ROE of either ■■■% or ■■■% is not reasonable, would not preserve DP&L's financial integrity, and would constitute a taking. The Commission should therefore reject the Application for Rehearing.

3. **ESP I Stipulation:** In addition, the argument of the Joint Movants that the ESP I Stipulation establishes that the RSC must be terminated after December 31, 2012 is

based upon a flawed reading of the ESP I Stipulation. The ESP I Stipulation has two paragraphs that relate to that argument:

"1. . . . the parties agree to extend DP&L's current rate plan through December 31, 2012 . . . .

\* \* \*

3. The current [RSC] charge will continue as a nonbypassable charge through December 31, 2012."

February 24, 2009 Stipulation and Recommendation, ¶¶ 1, 3 (Case No. 08-1094-EL-SSO).

The Joint Movants have asserted that the phrase "through December 31, 2012" (as used in ¶ 1) and the phrase "through December 31, 2012" (as used in ¶ 3) have different meanings. Specifically, ¶ 1 states that DP&L's current rates will extend "through December 31, 2012"; the Joint Movants have asserted that DP&L's current rates should continue until a new ESP is approved.<sup>2</sup> Paragraph 3 states that DP&L's RSC will continue as a nonbypassable charge "through December 31, 2012"; but the Joint Movants assert that the phrase "through December 31, 2012" in that paragraph means that DP&L agreed that the nonbypassable charge could not be extended beyond December 31, 2012.<sup>3</sup>

The Commission should reject the Joint Movants' argument because it is a basic tenet of interpretation that words used more than once in the same document have the same meaning throughout. State ex rel. Maurer v. Sheward, 71 Ohio St. 3d 513, 521, 644 N.E.2d 369 (1994) ("This court has consistently held that words used more than once in the same provision

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<sup>2</sup> See also Joint Motion, p. 4 ("Ohio law specifies that ESP I shall continue until such time as the Commission lawfully approves a successor SSO"); Reply, p. 5 ("Ohio law specifies that ESP I shall continue until such time as the Commission lawfully approves a successor SSO"); Joint Memorandum, p. 4 ("Ohio law provides that if another SSO is not approved prior to December 31, 2012, when DP&L's current ESP I was otherwise anticipated to terminate, DP&L's current SSO would simply continue").

<sup>3</sup> Joint Motion, pp. 5, 12, 14; Reply, pp. 3, 5-6, 9-10; Application for Rehearing, pp 6-8.



have the same meaning throughout the provision, unless there is clear evidence to the contrary."); Lakefront Airport Restaurant Corp. v. City of Cleveland, Cuyahoga App. No. 37049, 1978 Ohio App. LEXIS 10128, at \*6 (Aug. 3, 1978) (finding that "the parties' use of the same term repeatedly within the same instrument lends itself to the inference that the same meaning was intended in each instance"). The Commission should thus conclude that "through December 31, 2012" has the same meaning in paragraph 1 and in paragraph 3 of the ESP I Stipulation.

Specifically, the Commission should conclude that the phrase "through December 31, 2012" establishes only that those rates are set through that date. That phrase does not bar the Commission from continuing the existing rates; nor does the phrase mandate that existing rates continue.<sup>4</sup> The ESP I Stipulation is simply silent as to what rates will be after December 31, 2012. The Commission should thus reject the argument of the Joint Movants that the ESP I Stipulation mandates that the RSC expire after December 31, 2012.

**4.     The RSC is supported:** The Joint Movants also argue (pp. 10-12) that DP&L has not filed evidentiary support for the RSC. The Commission should reject that argument for two reasons.

First, as demonstrated above -- and as the Joint Movants have conceded -- Ohio law mandates that the RSC continue. There is thus no requirement that DP&L file evidentiary support for the RSC in this proceeding.

Second, in any event, the RSC is supported by evidence. Specifically, in DP&L's 2005 rate-plan case, it filed testimony demonstrating the reasonableness of the RSC. October 31,

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<sup>4</sup> As demonstrated above and as conceded by the Joint Movants, Ohio law does mandate that current rates, including the RSC, continue until a new SSO is approved by the Commission.

2005 Rebuttal Testimony of Kurt G. Strunk, pp. 8-14 (Case No. 05-0276-EL-AIR). The RSC was thereafter stipulated to in a Stipulation and Recommendation signed by two of the Joint Movants. November 3, 2005 Stipulation and Recommendation, § I.C (Case No. 05-0276-EL-AIR). The Commission thereafter approved the RSC as reasonable. December 28, 2005 Opinion and Order, p. 11. OCC appealed that decision to the Supreme Court of Ohio, which affirmed this Commission's decision to approve the RSC. Ohio Consumers' Counsel v. Pub. Utils. Comm'n of Ohio, 114 Ohio St. 3d 340, ¶17-26 (2007).

The RSC was thereafter continued by a Stipulation in DP&L's 2008 rate-plan case. February 24, 2009 Stipulation and Recommendation, ¶ 3 (Case No. 08-1094-EL-SSO). That Stipulation was signed by many of the Joint Movants, and the RSC was specifically approved by the Commission. June 24, 2009 Opinion and Order, pp. 8-9 (Case No. 08-1094-EL-SSO).

The RSC is thus supported, and has in fact been stipulated to by most of the Joint Movants in prior Commission cases.

**5. DP&L has acted in Good Faith:** The reasons that this proceeding has extended into 2013 are (a) that DP&L made good faith efforts to settle its MRO filing; and (b) that DP&L complied with the Staff's request that DP&L withdraw its MRO Application and file an ESP Application.

Specifically, in comments that the Commission's Staff filed regarding DP&L's MRO Application, Staff encouraged DP&L to withdraw its MRO Application and to file an ESP Application. April 27, 2012 Comments submitted on behalf of The Public Utilities Commission of Ohio, p. 26 ("Staff believes that the Applicant should consider submitting an Electric Security

Plan pursuant to R.C. 4928.143. Although either an electric security plan or a market rate option would fulfill the obligation under R.C. 4928.141, the electric security plan can offer significant advantages for the Applicant, the ratepayers of the Applicant and the public at large. . . . Staff recommends that Applicant strongly consider building on the successful electric security plan rather than proceed with the somewhat more limited market rate option.").

After the Staff Comments were issued, and consistent with DP&L's history of settling rate-plan cases, DP&L engaged in extended settlement efforts in an attempt to settle its MRO Application. Over a period of several months, DP&L circulated multiple settlement proposals to the intervenors and the Commission's Staff, and met with them on multiple occasions at the Commission's offices to discuss each proposal. Further, DP&L invited all of the parties to contact DP&L if they wished to discuss settlement, and many parties have contacted DP&L; DP&L thus had many individual settlement-related conversations.

Those settlement negotiations prolonged DP&L's MRO Application significantly, because the intervenors requested -- and DP&L agreed -- that multiple hearing dates be cancelled while DP&L's MRO application was pending so that the parties could focus on trying to settle DP&L's case. Further, the parties to DP&L's MRO case had been actively involved in hearings related to AEP's and FirstEnergy's earlier-filed rate-plan cases. As a result, those counsel at times had very limited time available to discuss settlement with DP&L.

Eventually, it became apparent that the parties were not going to be able to reach a settlement of DP&L's MRO Application. DP&L thereafter filed a notice withdrawing its MRO Application and began extensive work to file its ESP Application.

Further, on November 29, 2012, DP&L learned that there was a mistake in its filing, which required that it file a Second Revised Application. DP&L filed that update two weeks later. The only material change made in the Second Revised Application was that DP&L's proposal for its SSR increased from \$120 million to \$137.5 million.

In short, the delays that have occurred in this proceeding are a result of DP&L's good faith efforts to settle its MRO Application and DP&L's decision to comply with the Staff's request that it withdraw its MRO Application and file an ESP Application. The Commission should not penalize DP&L for its good-faith conduct.

6. **A Hearing Is Required:** The Supreme Court of Ohio has held that the Commission must conduct a hearing before it can lower a utility's rates. Ohio Bell Tel. Co. v. Pub. Utils. Comm'n of Ohio, 64 Ohio St. 3d 145, 147, 593 N.E.2d 286, 287 (1992) ("The commission conceded at oral argument that the order of May 8, 1991 effected a utility rate change. As a prerequisite to such action, the commission was obliged to give notice and conduct a hearing in accordance with R.C. 4905.26."); MCI Telecomms. Corp. v. Pub. Utils. Comm'n of Ohio, 38 Ohio St. 3d 266, 269, 527 N.E.2d 777, 780 (1988) ("The language of [Ohio Rev. Code § 4905.26] obviously requires the PUCO to give notice and conduct a hearing before ordering a change in utility rates.").

Therefore, if the Commission were to consider changing DP&L's rates, it must conduct a full evidentiary hearing before doing so.

**IV. CONCLUSION**

The Commission should deny the Application for Rehearing for each of the above separate reasons.

Respectfully submitted,

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I certify that a copy of the foregoing The Dayton Power and Light Company's Memorandum in Opposition to Application for Rehearing has been served via electronic mail upon the following counsel of record, this 28th day of January, 2013:

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s/Jeffrey S. Sharkey  
Jeffrey S. Sharkey

# EXHIBIT 1

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The AES Corporation, Dolphin Sub, Inc., DPL Inc. and The Dayton Power and Light Company for Consent and Approval for a Change of Control of The Dayton Power and Light Company.	Case No. 11-3002-EL-MER
In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan.	Case No. 08-1094-EL-SSO
In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs.	Case No. 08-1095-EL-ATA
In the Matter of the Application of The Dayton Power and Light Company for Approval of Certain Accounting Authority Pursuant to Ohio Rev. Code Section 4905.13.	Case No. 08-1096-EL-AAM
In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Amended Corporate Separation Plan.	Case No. 08-1097-EL-UNC
In the Matter of the Application of The Dayton Power and Light Company for Approval of its Market Rate Offer.	Case No. 12-426-EL-SSO
In the Matter of the Application of The Dayton Power and Light Company of Approval of Revised Tariffs.	Case No. 12-427-EL-ATA
In the Matter of the Application of The Dayton Power and Light Company for Approval of Certain Accounting Authority.	Case No. 12-428-EL-AAM
In the Matter of the Application of The Dayton Power and Light Company for the Waiver of Certain Commission Rules.	Case No. 12-429-EL-WVR

In the Matter of the Application of  
The Dayton Power and Light Company  
to Establish Tariff Riders.

Case No. 12-672-EL-RDR

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**DECLARATION OF WILLIAM J. CHAMBERS IN SUPPORT OF DP&L'S  
MEMORANDUM IN OPPOSITION TO APPLICATION FOR REHEARING**

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STATE OF MASSACHUSETTS            )  
  ) SS:  
COUNTY OF SUFFOLK                )

William J. Chambers declares:

**I.           INTRODUCTION AND SUMMARY**

1. My name is William J. Chambers. I have personal knowledge of all matters stated in this Declaration, and I am competent to testify to the facts stated below.

2. I earned a Ph.D. in economics from Columbia University in 1975. From 1983 to 2005, I was employed at Standard & Poor's; I was in the debt rating division for the large majority of my time there. I joined the faculty at Boston University in 2005, where I teach finance, investment analysis and related courses. A complete copy of my curriculum vitae is attached as Appendix A to my Second Revised Direct Testimony in this matter.

3. As demonstrated below, the principal conclusion that I reach is that if the Commission were to grant the relief sought in the Application for Rehearing -- i.e., that the Commission reconsider its decision to continue The Dayton Power and Light Company's ("DP&L") 2012 rates and eliminate the Rate Stabilization Charge ("RSC") entirely or, alternatively, make the RSC a bypassable charge until such time a full Hearing and determination can be made regarding the Company's ESP II application -- the negative impact on DP&L would be substantial and serve to impair its financial integrity. Under current projections, including expected levels of customer switching, DP&L would earn an annualized return on equity ("ROE") of [REDACTED] during any period in 2013 that those 2012 rates were in effect if the RSC is eliminated completely. That ROE is well below the level needed to maintain DP&L's financial integrity. If, alternatively, the RSC were to be made bypassable, DP&L's ROE would fall to [REDACTED] per year for any period that these rates were in effect, again severely affecting DP&L's financial integrity.

**II. DP&L LIKELY WOULD NOT BE ABLE TO MAINTAIN ITS  
FINANCIAL INTEGRITY IF THE JOINT MOTION WERE GRANTED**

4. This Declaration examines DP&L's financial integrity if the Commission were to continue DP&L's current rates through 2013, under three different assumptions about the extension of the current rates:

- i. Continuation of the full 2012 rate structure including the nonbypassable RSC,
- ii. Continuation of the 2012 rate structure with the exception of the RSC, which would be made bypassable, and

- iii. Continuation of the 2012 rate structure with the exception of the RSC, which would be removed.

5. I have examined the financial outcomes, including the ROE, and consequences that DP&L is projected to experience if DP&L's 2012 rate structure remains in effect through 2013, assuming that customers continue their pattern of switching to alternative electricity suppliers as projected in the Second Revised Direct Testimony of Aldyn Hoekstra. This approach is consistent with the analysis presented in my Second Revised Direct Testimony (filed on December 12, 2012) regarding the proposed ESP II, which I incorporate herein by reference.<sup>1</sup> Also, as in my Second Revised Direct Testimony, I have presented the analysis in the framework of a pro forma capital structure adjustment that effectively imputes some debt held on DPL Inc.'s balance sheet to DP&L.

6. As shown on WJC-VI, if the current rate structure were continued, in total, for 2013, the Company's total revenues are projected to be [REDACTED] (including the RSC which currently provides approximately \$73 million of revenues). The resulting net income for DP&L would be [REDACTED] under the current rate structure. However, if the RSC were removed entirely from the current rate structure, the Company would incur a projected net loss of [REDACTED] on an annualized basis. In the intermediate case of a bypassable RSC, 2013 net income is projected to be [REDACTED].

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<sup>1</sup> One modification is that I estimate accounts receivable as percentages of revenue in the scenarios that reduce the RSC below \$73 million to respond to the decline in revenues.

7. As shown in Exhibit WJC-V, with the reduction of the Company's net income to [REDACTED] million under the continuation of the entire current rate structure, the projected ROE would fall to [REDACTED], again on an annualized basis. That level of ROE is below the level required by investors and, if maintained for a period of time, would have an adverse effect on DP&L's financial integrity. Moreover, this level of ROE falls well below the PUCO's reasonable range of 7 to 11 percent.

8. A sustained ROE at this level would cause financial distress for the Company and threaten its financial integrity. Such poor financial performance for 2013 could result in DP&L's credit rating being reduced in the near term by those agencies that currently have the rating under review, increase its cost of borrowed funds and pose an obstacle to the refinancing of the Company's long term debt that matures in 2013 and renegotiation of its revolving line of credit. A full approval of DP&L's ESP II application would serve to mitigate the negative impact on its overall 2013 financial results.

9. If the RSC were made bypassable or removed from the current rate structure in 2013, the drop in the Company's net income would result in a projected ROE of just [REDACTED], respectively, well below a reasonable ROE. An ROE at that level would cause significant financial distress for the Company and threaten its financial integrity. Such poor financial performance for 2013 likely would result in DP&L's credit rating being reduced by both Moody's Investors Service and FitchRatings in the near term, increase its cost of borrowed funds and pose an obstacle to the refinancing of the Company's long term debt that matures in 2013 and renegotiation of its revolving line of credit. DP&L would also



enter 2014 and later years in a weaker financial position if it experienced financial stress in 2013.

10. The above results assume additional customer shopping beyond the level that had occurred as of August 2012, as discussed in the Switching scenario of my testimony analyzing the proposed ESP II. I understand that the assumption of continued customer shopping (switching) is supported by actual customer behavior through the last months of 2012.

11. The results and conclusions stated above are based on the application of DP&L's current rate structure to the entire year of 2013. If the proposed ESP II were implemented at some point during the year, with the current rates applying to only the first part of the year, then the ROEs shown in Exhibit WJC-V would be representative of the annualized ROE earned during the portion of the year for which the existing rates remain in place.

12. Additional uncertainty regarding the rates that DP&L can charge for 2013 and beyond will increase the likelihood that DP&L's credit ratings will be lowered and will potentially threaten DP&L's ability to refinance (on favorable terms) the \$469 million first mortgage bond issue which matures in October 2013 and a short-term liquidity facility which matures in April 2013. Elimination of the RSC or materially altering it by making it bypassable after the Commission has already approved its extension likely would be interpreted by the financial community and rating agencies as indicative of the Commission's decision regarding DP&L's proposed ESP II. The Company's credit rating is already under review for possible downgrade by both Moody's and FitchRatings, so any negative result or

signal would contribute to the lowering of its credit rating to below investment grade. In its announcement on November 9, 2012, Moody's placed the ratings of DP&L and DPL under review for possible downgrade. It cited three principal reasons for this action:

- a. Deterioration of the companies' financial metrics in 2013;
- b. Uncertainty regarding the regulatory compact; and
- c. Challenges around debt maturities beginning in 2013.<sup>2</sup>

Similarly, on November 7, 2012, FitchRatings placed the rating of DP&L on Rating Watch Negative at the same time that it lowered the rating on DPL.<sup>3</sup> FitchRatings cited similar factors to those identified by Moody's in taking this action.

13. Reconsideration of the Commission's December decision would directly and negatively affect all three of these factors. As documented in this Declaration, the longer DP&L is required to operate under the existing rate regime rather than under the ESP II rates, the poorer will be its financial performance in 2013. Elimination of the RSC or making it bypassable would harm DP&L's results in 2013 still further and place it in a substantially weaker financial position entering 2014. Any rehearing will also increase concern about the regulatory environment facing DP&L. Both of these factors will affect how investors approach any debt issuance to refinance maturing obligations or the granting of new short-term financing facilities.

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<sup>2</sup> Moody's Investors Service, "Announcement: Moody's Places the Ratings of DPL and DP&L Under Review for Possible Downgrade," November 9, 2012.

<sup>3</sup> FitchRatings, "Fitch Downgrades DPL and Places DPL and DP&L on Rating Watch Negative," November 7, 2012.

Executed on January 28, 2013, at Boston, Massachusetts.

  
William J. Chambers

The Dayton Power and Light Company  
Case No. 12-426-EL-SSO  
Projected Financial Ratios  
Continue Current Rate Structure in 2013, Expected Switching

Data: Forecasted

Type of Filing: Declaration

Work Paper Reference No(s): WJC-VI; WJC-VII;  
WJC-VIII; Second Revised WJC-11

WJC-V

Page 1 of 1

Witness Responsible: William J. Chambers

Line No.	Description	Nonbypassable	Bypassable	Eliminated	Source
(A)	(B)	(C)	(D)	(E)	(F)
1	Net Income	\$			Line 38 from WJC-VI.
2	Issuance of pref. stock	\$			Line 14 from WJC-VIII.
3	Average Equity	\$			See Below.
4	ROE				See Below.
5	Operating EBITDA / Interest Expense				See Below.
6	FFO + Interest / Interest Expense				See Below.
7	Debt / Operating EBITDA				See Below.
8	Debt / FFO				See Below.
9	Total Debt / Total Capital				See Below.
10	Common Equity / Total Capital				See Below.
11	Internal Generation				See Below.
12	Operating Margin				See Below.
13	Common Dividend Payout Ratio				See Below.

Notes & Sources:

- 3  $(\$1,132 \text{ (2012 Common Shareholder's Equity, see Second Revised WJC-11)} + \text{Line 36 from WJC-VII}) / 2.$
- 4  $(\text{Line 1} + \text{Line 2}) / \text{Line 3}.$
- 5  $\text{Line 24} / \text{Line 29 from WJC-VI} * -1.$
- 6  $((\text{Line 6} - \text{Line 4 from WJC-VIII}) - \text{Line 29 from WJC-VI}) / (-1 * \text{Line 29 from WJC-VI}).$
- 7  $(\text{Line 25} + \text{Line 38 from WJC-VII}) / \text{Line 24 from WJC-VI}.$
- 8  $(\text{Line 25} + \text{Line 38 from WJC-VII}) / (\text{Line 6} - \text{Line 4 from WJC-VIII}).$
- 9  $(\text{Line 25} + \text{Line 38}) / (\text{Line 25} + \text{Line 39}) \text{ from WJC-VII}.$
- 10  $\text{Line 36} / (\text{Line 25} + \text{Line 39}) \text{ from WJC-VII}.$
- 11  $(\text{Line 6} - \text{Line 4} + \text{Line 13} + \text{Line 14 from WJC-VIII}) / \text{Change in 2012 to 2013 Line 10 from WJC-VII}.$   
2012 PPE calculated as average 2011 and 2013 PPE.
- 12  $\text{Line 22} / \text{Line 7 from WJC-VI}.$
- 13  $(-1 * \text{Line 13}) / (\text{Line 1} + \text{Line 14}) \text{ from WJC-VIII}.$

The Dayton Power and Light Company  
Case No. 12-426-EL-SSO  
Projected Statements of Income (unaudited) (\$ in millions)  
Continue Current Rate Structure in 2013, Expected Switching

Data: Forecasted

Type of Filing: Declaration

Work Paper Reference No(s): CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx;

WJC-II; Second Revised WJC-11; WP-12.2; Additional detail for financial integrity 9.23.12.xlsx

WJC-VI

Page 1 of 1

Witness Responsible: William J. Chambers

Line No.	Description	Nonbypassable	Bypassable	Eliminated	Source
(A)	(B)	(C)	(D)	(E)	(F)
1	<u>Operating Revenues</u>				
2	Retail	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
3	Service Stability rider	\$			See Below
4	Wholesale	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx
5	RTO Capacity and Other RTO Revenues	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
6	Other Revenues	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
7	Total Revenues	\$			Sum(Line 2 – Line 6).
8					
9	<u>Fuel and Purchased Power</u>				
10	Fuel Costs	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
11	Purchased Power	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
12	Total Fuel and Purchased Power	\$			Line 10 + Line 11.
13					
14	Gross Margin	\$			Line 7 - Line 12.
15					
16	<u>Operating Expenses</u>				
17	Operation and Maintenance	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
18	Depreciation and Amortization	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx
19	General Taxes	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx
20	Total Operating Expenses	\$			Sum(Line 17 – Line 19).
21					
22	Operating Income	\$			Line 14 - Line 20.
23					
24	EBITDA	\$			Line 18 + Line 22.
25					
26	L.T. Rate				From Workpaper 12.2.
27	Additional Interest Expense	\$			See Below.
28	Original Gross Interest Expense	\$			Internal Documents.
29	Actual Gross Interest Expense	\$			Line 27 + Line 28.
30	Other Interest Expense	\$			Internal Documents.
31	Total Interest Expense	\$			Line 29 + Line 30.
32	Other Income (Deductions)	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
33					
34	Earnings Before Income Tax	\$			Line 22 + Line 31 + Line 32.
35					
36	Income Tax	\$			Line 34 * 35.8%.
37					
38	Net Income	\$			Line 34 - Line 36.

Notes & Sources:

The wholesale revenue and purchased power variance between the two scenarios is primarily driven by the 10% transition to market expense assumption in the Proposed scenario which impacts the net hourly energy reconciliation between wholesale revenue and purchased power.

3 Nonbypassable value of \$73M from WJC-II and conversations with Dona Seger-Lawson. Eliminated value of \$0 from Joint Motion.

Bypassable value of [REDACTED] calculated by [REDACTED] \* 73M, where [REDACTED] is the average switching rate for 2012 and 2013 (see Hockstra Testimony, at 3).

27 Additional \$251M in LT Debt (see Second Revised WJC-11) \* Line 26 \*-1.

The Dayton Power and Light Company  
Case No. 12-426-EL-SSO  
Projected Balance Sheet (unaudited) (\$ in millions)  
Continue Current Rate Structure in 2013, Expected Switching

Data: Forecasted

Type of Filing: Declaration

Work Paper Reference No(s): WJC-VI; WJC-VIII; Second Revised WJC-11;

WJC-VII

Page 1 of 1

Witness Responsible: William J. Chambers

CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx

Line		Estimated Balance at December 31, 2013			Source
No.	Description	Nonbypassable	Bypassable	Eliminated	
(A)	(B)	(C)	(D)	(E)	(F)
1	<u>Assets</u>				
2	Cash and temporary cash investments	\$			From WJC-VIII
3	Accounts receivable	\$			See Below.
4	Inventories, at average cost	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
5	Taxes applicable to subsequent years	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
6	Other	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
7	Total Current Assets	\$			Sum(Line 2 - Line 6).
8					
9	Property, Plant and Equipment				
10	Property, Plant and Equipment	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
11	Accumulated depreciation and amortization	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
12	Total Property, Plant and Equipment	\$			Line 10 + Line 11.
13					
14	Income taxes recoverable through future revenues	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
15	Other regulatory assets	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
16	Other	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
17	Total Other Noncurrent Assets	\$			Sum(Line 14 - Line 16).
18					
19	Total Assets	\$			Line 7 + Line 12 + Line 17.
20					
21	<u>Liabilities and Shareholder's Equity</u>				
22					
23	Accounts payable	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
24	Accrued taxes	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
25	Short-term debt	\$			From WJC-VIII.
26	Other	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
27	Current Liabilities	\$			Sum(Line 23 - Line 26).
28					
29	Deferred taxes	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
30	Unamortized investment tax credit	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
31	Other	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
32	Non Current Liabilities	\$			Sum(Line 29 - Line 31).
33	Current and Non Current Liabilities	\$			Line 27 + Line 32.
34					
35	Capitalization				
36	Common Shareholder's Equity	\$			See Below.
37	Preferred Stock	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
38	Total Long Term Debt	\$			See Below.
39	Total Capitalization	\$			Sum(Line 36 - Line 38).
40					
41	Total Liabilities and Shareholder's Equity	\$			Line 33 + Line 39.

Notes & Sources:

- 3 (Line 7 from WJC-VI / Line 7 (C) from WJC-VI) \* Accounts Receivable from CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.  
36 \$1,132M (2012 Common Shareholder's Equity, see Second Revised WJC-11) + (Line 38 from WJC-VI + (Line 13 + Line 14) from WJC-VIII).  
38 LT Debt + \$251M. See Second Revised WJC-11, CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.

The Dayton Power and Light Company  
Case No. 12-426-EL-SSO  
Projected Statement of Cash Flows (unaudited) (\$ in millions)  
Continue Current Rate Structure in 2013, Expected Switching

Data: Forecasted

Type of Filing: Declaration

WJC-VIII

Page 1 of 1

Work Paper Reference No(s): WJC-VI; WJC-VII; CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx

Witness Responsible: William J. Chambers

Line No.	Description	Estimated Balance at December 31, 2013			Source
		Nonbypassable	Bypassable	Eliminated	
(A)	(B)	(C)	(D)	(E)	(F)
1	Net Income	\$			From WJC-VI.
2	Depreciation and Amortization	\$			From WJC-VI.
3	Change in Deferred taxes	\$			See Below.
4	Change in Certain Current Assets and Liabilities	\$			Imputed value from Internal documents.
5	Other				
6	Net cash provided by operating activities	\$			Sum (Line 1 - Line 5).
7					
8	Net cash used for investing activities	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
9					
10	Original Issuance (retirement) of short-term debt	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
11	Actual Issuance (retirement) of short-term debt	\$			See Below.
12	Original Dividends paid to DPL Inc	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
13	Actual Dividends paid to DPL Inc	\$			See Below.
14	Issuance of pref. stock	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
15	Other	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
16	Net cash used for financing activities	\$			Line 11 + Line 13 + Line 14 + Line 15.
17					
18	Cash and Cash Equivalents				
19	Net Change	\$			Line 6 + Line 8 + Line 16.
20	Balance at beginning of period	\$			From CLJ Exhibits with DETAIL- inc switching ext 2012 ratesv2.xlsx.
21	Cash and cash equivalents at end of period	\$			Line 19 + Line 20.

Notes & Sources:

3 2012 to 2013 change in Line 29 from WJC-VII. 2012 value average of 2011 and 2013 value.

11 Line 10 unless Line 21 falls below \$10M and Line 13 equals \$0. Then increased such that Line 21 is equal to \$10M.

13 Equal to Line 12 unless Line 21 falls below \$10M using the original amount of short-term debt. Dividends then lowered such that Line 21 is equal to \$10M using the original issuance of short-term debt.



**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

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**Case No(s). 11-3002-EL-MER, 08-1094-EL-SSO, 08-1096-EL-AAM, 08-1097-EL-UNC, 12-0426-EL-SSO**

Summary: Memorandum The Dayton Power and Light Company's Memorandum in Opposition to Application for Rehearing electronically filed by Mr. Jeffrey S Sharkey on behalf of The Dayton Power and Light Company